

AMENDED IN ASSEMBLY AUGUST 17, 2006

SENATE BILL

No. 225

Introduced by Senator Soto
(Coauthor: Assembly Member Chu)

February 15, 2005

An act to amend ~~Section 44283~~ *Sections 44283, 44299.1, and 44299.2* of the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

SB 225, as amended, Soto. Carl Moyer program.

Existing law establishes the Carl Moyer Memorial Air Quality Standards Attainment Program (Carl Moyer program), which provides grants to offset the incremental cost of eligible projects that reduce oxides of nitrogen from heavy-duty mobile sources in the state. Existing law, until January 1, 2015, prohibits grants for projects with a cost-effectiveness of more than \$13,600 per ton of NO_x reduced in California, and on and after that date reduces that dollar amount to \$12,000.

This bill would allow the State Air Resources Board to determine a higher value that reflects state consumer price index adjustments.

Existing provisions of the Carl Moyer program specify a scheme for allocation of program funding to air pollution control districts and air quality management districts and limit how much of the allocations may be used for certain expenses.

This bill would revise or limit the percentages of program funding that may be allocated to air pollution control districts and air quality management districts for specified purposes, with different limits for districts with a population of less than 1,000,000 and for districts with a population of 1,000,000 or more. The bill would increase the

percentages of the allocation to districts that are based on population and severity of the air quality problems, would award severity points based, in part, upon the annual diesel particulate emissions in an air basin, and would reduce the percentage of the allocation that is based on other specified criteria. These changes would remain in effect only until January 1, 2015.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 44283 of the Health and Safety Code,
2 as amended by Section 9 of Chapter 707 of the Statutes of 2004,
3 is amended to read:
4 44283. (a) Grants shall not be made for projects with a
5 cost-effectiveness, calculated in accordance with this section, of
6 more than thirteen thousand six hundred dollars (\$13,600) per
7 ton of NO_x reduced in California or a higher value that reflects
8 state consumer price index adjustments on or after January 1,
9 2006, as determined by the state board. For projects obtaining
10 reactive organic gas and particulate matter reductions, the state
11 board shall determine appropriate adjustment factors to calculate
12 a weighted cost-effectiveness.
13 (b) Only covered emission reductions occurring in this state
14 shall be included in the cost-effectiveness determination. The
15 extent to which emissions generated at sea contribute to air
16 quality in California nonattainment areas shall be incorporated
17 into these methodologies based on a reasonable assessment of
18 currently available information and modeling assumptions.
19 (c) The state board shall develop protocols for calculating the
20 surplus covered emission reductions in California from
21 representative project types over the life of the project.
22 (d) The cost of the covered emission reduction is the amount
23 of the grant from the program, including matching funds
24 provided pursuant to subdivision (e) of Section 44287, plus any
25 other state funds, or funds under the district's budget authority or
26 fiduciary control, provided toward the project. The state board
27 shall establish reasonable methodologies for evaluating project
28 cost-effectiveness, consistent with the definition contained in
29 paragraph (4) of subdivision (a) of Section 44275, and with

1 accepted methods, taking into account a fair and reasonable
2 discount rate or time value of public funds.

3 (e) A grant shall not be made that, net of taxes, provides the
4 applicant with funds in excess of the incremental cost of the
5 project. Incremental lease costs may be capitalized according to
6 guidelines adopted by the state board so that these incremental
7 costs may be offset by a one-time grant award.

8 (f) Funds under a district's budget authority or fiduciary
9 control may be used to pay for the incremental cost of liquid or
10 gaseous fuel, other than standard gasoline or diesel, which is
11 integral to a covered emission reducing technology that is part of
12 a project receiving grant funding under the program. The fuel
13 shall be approved for sale by the state board. The incremental
14 fuel cost over the expected lifetime of the vehicle may be offset
15 by the district if the project as a whole, including the incremental
16 fuel cost, meets all of the requirements of this chapter, including
17 the maximum allowed cost-effectiveness. The state board shall
18 develop an appropriate methodology for converting incremental
19 fuel costs over the vehicle lifetime into an initial cost for the
20 purposes of determining project cost-effectiveness. Incremental
21 fuel costs may not be included in project costs for fuels dispensed
22 from any facility that was funded, in whole or in part, from the
23 fund.

24 (g) For purposes of determining any grant amount pursuant to
25 this chapter, the incremental cost of any new purchase, retrofit,
26 repower, or add-on equipment shall be reduced by the value of
27 any current financial incentive that directly reduces the project
28 price, including any tax credits or deductions, grants, or other
29 public financial assistance. Project proponents applying for
30 funding shall be required to state in their application any other
31 public financial assistance to the project.

32 (h) For projects that would repower offroad equipment by
33 replacing uncontrolled diesel engines with new, certified diesel
34 engines, the state board may establish maximum grant award
35 amounts per repower. A repower project shall also be subject to
36 the incremental cost maximum pursuant to subdivision (e).

37 (i) After study of available emission reduction technologies
38 and costs and after public notice and comment, the state board
39 may reduce the values of the maximum grant award criteria
40 stated in this section to improve the ability of the program to

1 achieve its goals. Every year the state board shall adjust the
2 maximum cost-effectiveness amount established in subdivision
3 (a) and any per-project maximum set by the state board pursuant
4 to subdivision (h) to account for inflation.

5 (j) This section shall remain in effect only until January 1,
6 2015, and as of that date is repealed, unless a later enacted
7 statute, that is enacted before January 1, 2015, deletes or extends
8 that date.

9 SEC. 2. Section 44283 of the Health and Safety Code, as
10 added by Chapter 707 of the Statutes of 2004, is amended to
11 read:

12 44283. (a) Grants shall not be made for projects with a
13 cost-effectiveness, calculated in accordance with this section, of
14 more than twelve thousand dollars (\$12,000) per ton of NO_x
15 reduced in California or a higher value that reflects state
16 consumer price index adjustments on or after January 1, 2015, as
17 determined by the state board.

18 (b) Only NO_x reductions occurring in this state shall be
19 included in the cost-effectiveness determination. The extent to
20 which emissions generated at sea contribute to air quality in
21 California nonattainment areas shall be incorporated into these
22 methodologies based on a reasonable assessment of currently
23 available information and modeling assumptions.

24 (c) The state board shall develop protocols for calculating the
25 surplus NO_x reductions in California from representative project
26 types over the life of the project.

27 (d) The cost of the NO_x reduction is the amount of the grant
28 from the program, including matching funds provided pursuant to
29 subdivision (e) of Section 44287, plus any other state funds, or
30 funds under the district's budget authority or fiduciary control,
31 provided toward the project. The state board shall establish
32 reasonable methodologies for evaluating project
33 cost-effectiveness, consistent with the definition contained in
34 subdivision (c) of Section 44275, and with accepted methods,
35 taking into account a fair and reasonable discount rate or time
36 value of public funds.

37 (e) A grant shall not be made that, net of taxes, provides the
38 applicant with funds in excess of the incremental cost of the
39 project. Incremental lease costs may be capitalized according to

1 guidelines adopted by the state board so that these incremental
2 costs may be offset by a one-time grant award.

3 (f) Funds under a district's budget authority or fiduciary
4 control may be used to pay for the incremental cost of liquid or
5 gaseous fuel, other than standard gasoline or diesel, which is
6 integral to a NO_x reducing technology that is part of a project
7 receiving grant funding under the program. The fuel shall be
8 approved for sale by the state board. The incremental fuel cost
9 over the expected lifetime of the vehicle may be offset by the
10 district if the project as a whole, including the incremental fuel
11 cost, meets all of the requirements of this chapter, including the
12 maximum allowed cost-effectiveness. The state board shall
13 develop an appropriate methodology for converting incremental
14 fuel costs over the vehicle lifetime into an initial cost for the
15 purposes of determining project cost-effectiveness. Incremental
16 fuel costs may not be included in project costs for fuels dispensed
17 from any facility that was funded, in whole or in part, from the
18 fund.

19 (g) For purposes of determining any grant amount pursuant to
20 this chapter, the incremental cost of any new purchase, retrofit,
21 repower, or add-on equipment shall be reduced by the value of
22 any current financial incentive that directly reduces the project
23 price, including any tax credits or deductions, grants, or other
24 public financial assistance. Project proponents applying for
25 funding shall be required to state in their application any other
26 public financial assistance to the project.

27 (h) For projects that would repower offroad equipment by
28 replacing uncontrolled diesel engines with new, certified diesel
29 engines, the state board may establish maximum grant award
30 amounts per repower. A repower project shall also be subject to
31 the incremental cost maximum pursuant to subdivision (e).

32 (i) After study of available emission reduction technologies
33 and costs and after public notice and comment, the state board
34 may reduce the values of the maximum grant award criteria
35 stated in this section to improve the ability of the program to
36 achieve its goals. Every year the state board shall adjust the
37 maximum cost-effectiveness amount established in subdivision
38 (a) and any per-project maximum set by the state board pursuant
39 to subdivision (h) to account for inflation.

40 (j) This section shall become operative on January 1, 2015.

1 *SEC. 3. Section 44299.1 of the Health and Safety Code, as*
2 *amended by Section 11 of Chapter 707 of the Statutes of 2004, is*
3 *amended to read:*

4 44299.1. (a) To ensure that emission reductions are obtained
5 as needed from pollution sources, any money deposited in or
6 appropriated to the fund shall be segregated and administered as
7 follows:

8 (1) Not more than 2 percent of the moneys in the fund shall be
9 allocated to program support and outreach costs incurred by the
10 state board and the commission directly associated with
11 implementing the program pursuant to this chapter. These funds
12 shall be allocated to the state board and the commission in
13 proportion to total program funds administered by the state board
14 and the commission.

15 (2) Not more than 2 percent of the moneys in the fund shall be
16 allocated to direct program outreach activities. The state board
17 may use these funds for program outreach contracts or may
18 allocate outreach funds to participating air districts in proportion
19 to each district's allocation from the Covered Vehicle Account.
20 The state board shall report on the use of outreach funds in their
21 reports to the Legislature pursuant to Section 44295.

22 (3) The balance shall be deposited in the Covered Vehicle
23 Account to be expended to offset added costs of new very low or
24 zero-emission vehicle technologies, and emission reducing
25 repowers, retrofits, and add-on equipment for covered vehicles
26 and engines, and other projects specified in Section 44281.

27 (b) Funds in the Covered Vehicle Account shall be allocated to
28 a district that submits an eligible application to the state board
29 pursuant to Section 44287. The state board shall determine the
30 maximum amount of annual funding from the Covered Vehicle
31 Account that each district may receive. This determination shall
32 be based on the population in each district as well as the relative
33 importance of obtaining covered emission reductions in each
34 district, specifically through the program.

35 (c) *Not more than 5 percent of the moneys allocated pursuant*
36 *to this chapter to a district with a population of one million or*
37 *more may be used by the district for direct and indirect costs of*
38 *implementation of the program, including outreach costs that are*
39 *subject to the limitation in paragraph (2) of subdivision (a). In*
40 *addition to this 5 percent, the district may use not more than 3*

1 *percent of the moneys it receives pursuant to this chapter and*
2 *subdivision (b) of Section 44229, to pay costs incurred for the*
3 *following:*

4 *(1) To develop, maintain, and operate data management*
5 *systems to implement light and medium duty vehicle projects*
6 *pursuant to paragraph (5) of subdivision (a) of Section 44281.*

7 *(2) To purchase and operate monitoring equipment to ensure*
8 *compliance with requirements of grant criteria and guidelines*
9 *established pursuant to Section 44287, including, but not limited*
10 *to, global positioning systems and electronic monitoring units.*

11 *(3) To purchase and operate equipment, hardware, or*
12 *software used to ensure compliance with requirements of grant*
13 *criteria and guidelines established pursuant to Section 44287.*

14 *(d) Not more than 10 percent of the moneys allocated pursuant*
15 *to this chapter to a district with a population of less than one*
16 *million may be used by the district for direct and indirect costs of*
17 *implementation of the program, including outreach costs that are*
18 *subject to the limitation in paragraph (2) of subdivision (a). In*
19 *addition to this 10 percent, the district may use not more than 3*
20 *percent of the moneys it receives pursuant to this chapter and*
21 *subdivision (b) of Section 44229, to pay costs incurred for the*
22 *following:*

23 *(1) To develop, maintain, and operate data management*
24 *systems to implement light and medium duty vehicle projects*
25 *pursuant to paragraph (5) of subdivision (a) of Section 44281.*

26 *(2) To purchase and operate monitoring equipment to ensure*
27 *compliance with requirements of grant criteria and guidelines*
28 *established pursuant to Section 44287, including, but not limited*
29 *to, global positioning systems and electronic monitoring units.*

30 *(3) To purchase and operate equipment, hardware, or*
31 *software used to ensure compliance with requirements of grant*
32 *criteria and guidelines established pursuant to Section 44287.*

33 ~~*(e)*~~

34 *(e) This section shall remain in effect only until January 1,*
35 *2015, and as of that date is repealed, unless a later enacted*
36 *statute, that is enacted before January 1, 2015, deletes or extends*
37 *that date.*

38 *SEC. 4. Section 44299.2 of the Health and Safety Code is*
39 *amended to read:*

1 44299.2. Funds shall be allocated to local air pollution control
2 and air quality management districts, and shall be subject to
3 administrative terms and conditions as follows:

4 (a) Available funds shall be distributed to districts taking into
5 consideration the population of the area, the severity of the air
6 quality problems experienced by the population, and the
7 historical allocation of the Carl Moyer Memorial Air Quality
8 Standards Attainment Trust Fund, except that the ~~South Coast~~
9 ~~Air Quality Management District~~ *south coast district* shall be
10 allocated a percentage of the total funds available to districts that
11 is proportional to the percentage of the total state population
12 residing within the jurisdictional boundaries of that district. For
13 the purposes of this subdivision, population shall be determined
14 by the state board based on the most recent data provided by the
15 Department of Finance. The allocation to the ~~South Coast Air~~
16 ~~Quality Management District~~ *south coast district* shall be
17 subtracted from the total funds available to districts. Each
18 district, except the ~~South Coast Air Quality Management District~~
19 *south coast district*, shall be awarded a minimum allocation of
20 two hundred thousand dollars (\$200,000), and the remainder,
21 which shall be known as the “allocation amount,” shall be
22 allocated to all districts as follows:

23 (1) The state board shall distribute ~~30~~ 35 percent of the
24 allocation amount to the districts in proportion to the percentage
25 of the total residual state population that resides within each
26 district’s boundaries. For purposes of this paragraph, “total
27 residual state population” means the total state population, less
28 the total population that resides within the ~~South Coast Air~~
29 ~~Quality Management District~~ *south coast district*.

30 (2) The state board shall distribute ~~30~~ 35 percent of the
31 allocation amount to the districts in proportion to the severity of
32 the air quality problems to which each district’s population is
33 exposed. The severity of the exposure shall be calculated as
34 follows:

35 (A) Each district shall be awarded severity points based on the
36 district’s attainment designation and classification, as most
37 recently promulgated by the federal Environmental Protection
38 Agency for the National Ambient Air Quality Standard for ozone
39 averaged over eight hours, as follows:

1 (i) A district that is designated attainment for the federal
2 eight-hour ozone standard shall be awarded one point.

3 (ii) A district that is designated nonattainment for the federal
4 eight hour ozone standard shall be awarded severity points based
5 on classification. Two points shall be awarded for transitional,
6 basic, or marginal classifications, three points for moderate
7 classification, four points for serious classification, five points
8 for severe classification, six points for severe-17 classification,
9 and seven points for extreme classification.

10 (B) Each district shall be awarded severity points based on the
11 district's attainment designation and classification for the
12 National Ambient Air Quality Standard for particulate matter,
13 averaged annually, as follows: *the annual diesel particulate*
14 *emissions in the air basin, as determined by the state board. One*
15 *point shall be awarded to the district, in increments, for each*
16 *1,000 tons of diesel particulate emissions. In making this*
17 *determination, 0 to 999 tons shall be awarded no points, 1,000 to*
18 *1,999 tons shall be awarded one point, 2,000 to 2,999 tons shall*
19 *be awarded two points, and so forth. If a district encompasses*
20 *more than one air basin, the air basin with the greatest diesel*
21 *particulate emissions shall be used to determine the points*
22 *awarded to the district. The San Diego County Air Pollution*
23 *Control District and the Imperial County Air Pollution Control*
24 *District shall be awarded one additional point each to account*
25 *for annual diesel particulate emissions transported from Mexico.*

26 ~~(i) A district that is designated attainment for the federal~~
27 ~~annual particulate-matter standard shall be awarded one point.~~

28 ~~(ii) A district that is designated nonattainment for the federal~~
29 ~~annual particulate-matter standard shall be awarded severity~~
30 ~~points based on classification. Two points shall be awarded for~~
31 ~~moderate classification, three points awarded for serious~~
32 ~~classification where one-third or less of the contributing~~
33 ~~emissions is secondary particulate formed from non-dust~~
34 ~~precursors, and four points for serious classification where more~~
35 ~~than one-third of the contributing emissions is secondary~~
36 ~~particulate formed from non-dust precursors.~~

37 (C) The points awarded under subparagraphs (A) and (B),
38 shall be added together for each district, and the total shall be
39 multiplied by the population residing within the district
40 boundaries, to yield the local air quality exposure index.

(D) The local air quality exposure index for each district shall be summed together to yield a total state exposure index. Funds shall be allocated under this paragraph to each district in proportion to its local air quality exposure index divided by the total state exposure index.

(3) The state board shall distribute ~~40~~ 30 percent of the allocation amount to the districts in proportion to the allocation of funds from the Carl Moyer Memorial Air Quality Standards Attainment Trust Fund, as follows:

(A) Because each district is awarded a minimum allocation pursuant to subdivision (a), there shall be no additional minimum allocation from the Carl Moyer historical allocation funds. The total amount allocated in this way shall be subtracted from total funding previously awarded to the district under the Carl Moyer Memorial Air Quality Standards Attainment Program, and the remainder, which shall be known as directed funds, shall be allocated pursuant to subparagraph (B).

(B) Each district with a population that is greater than or equal to 1 percent of the state's population shall receive an additional allocation based on the population of the district and the district's relative share of emission reduction commitments in the State Implementation Plan to attain the National Ambient Air Quality Standard for ozone averaged over one hour. This additional allocation shall be calculated as a percentage share of the directed funds for each district, derived using a ratio of each district's share amount to the base amount, which shall be calculated as follows:

(i) The base amount shall be the total Carl Moyer program funds allocated by the state board to the districts in the 2002–03 fiscal year, less the total of the funds allocated through the minimum allocation to each district in the 2002–03 fiscal year.

(ii) The share amount shall be the allocation that each district received in the 2002–03 fiscal year, not including the minimum allocation. There shall be one share amount for each district.

(iii) The percentage share shall be calculated for each district by dividing the district's share amount by the base amount, and multiplying the result by the total directed funds available under this subparagraph.

1 (b) Funds shall be distributed as expeditiously as reasonably
2 practicable, and a report of the distribution shall be made
3 available to the public.

4 (c) All funds allocated pursuant to this section shall be
5 expended as provided in the guidelines adopted pursuant to
6 Section 44287 within two years from the date of allocation.
7 Funds not expended within the two years shall be returned to the
8 Covered Vehicle Account within 60 days and shall be subject to
9 further allocation as follows:

10 (1) Within 30 days of the deadline to return funds, the state
11 board shall notify the districts of the total amount of returned
12 funds available for reallocation, and shall list those districts that
13 request supplemental funds from the reallocation and that are
14 able to expend those funds within one year.

15 (2) Within 90 days of the deadline to return funds, the state
16 board shall allocate the returned funds to the districts listed
17 pursuant to paragraph (1).

18 (3) All supplemental funds distributed under this subdivision
19 shall be expended consistent with the Carl Moyer Air Quality
20 Standards Attainment Program within one year of the date of
21 supplemental allocation. Funds not expended within one year
22 shall be returned to the Covered Vehicle Account and shall be
23 distributed at the discretion of the state board to districts, taking
24 into consideration of each district's ability to expeditiously
25 utilize the remaining funds consistent with the Carl Moyer Air
26 Quality Standards Attainment Program.

27 (d) This section shall remain in effect only until January 1,
28 2015, and as of that date is repealed, unless a later enacted
29 statute, that is enacted before January 1, 2015, deletes or extends
30 that date.